

Senate Bill No. 616

Passed the Senate September 8, 2005

Secretary of the Senate

Passed the Assembly August 31, 2005

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2005, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 6254.14 of the Government Code, and to amend Section 6126 of, and to add Sections 5024.3 and 5024.4 to the Penal Code, relating to health care services.

LEGISLATIVE COUNSEL'S DIGEST

SB 616, Speier. Inmate health care.

Existing law requires hospitals that do not contract with the Department of Corrections and Rehabilitation for emergency health care services to provide those services at a Medicare rate. Existing law prohibits the department from reimbursing a hospital that provides those services at a rate that exceeds the hospital's reasonable and allowable costs.

This bill would require the department to make a reasonable effort to lower health care expenditures, as specified. The bill would require the department to strive to renegotiate each health care contract that is not competitively bid as it expires, to obtain services at the most advantageous price, with a goal of 115% of the Medicare rate. The bill would require the department, to the extent possible, to provide health care services to inmates at the prison site, if it would be more cost-effective than transporting inmates to outside hospitals.

This bill would require the department, to work with the San Francisco Veterans Administration Medical Center or its designee, for the treatment of parolees who are military veterans, as specified.

Existing law specifies the duties of the Office of Inspector General.

This bill would include in those duties the requirement to establish a process, in consultation with the California Medical Board, to facilitate the receipt, review, and investigation of complaints from employees of the Department of Corrections and Rehabilitation who provide health care services.

Existing law protects from disclosure records of the Department of Corrections and Rehabilitation that relate to health care service contract negotiations.

This bill would require the department to disclose to the State Auditor certain information related to health care service

contracts that are not competitively bid. The bill would authorize the State Auditor to disclose that information to the Joint Legislative Audit Committee, upon request.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) State expenditures for the delivery of health care services to adult inmates in state prisons doubled from the 2000-01 fiscal year to the 2002-03 fiscal year.

(b) Expenditures are continuing to increase at high annual rates, with expenditures projected to surpass \$1 billion in the 2005-06 fiscal year.

(c) While the Department of Corrections and Rehabilitation acknowledges that it must reduce its costs and improve the delivery of health care, its plans for reorganizing the delivery of health care services, by its own admission, will not be fully realized until 2010.

(d) It is critical that the department take further immediate steps beyond its initial reorganization plans of 2005 to improve the delivery of health care.

SEC. 2. Section 6254.14 of the Government Code is amended to read:

6254.14. (a) (1) Except as provided in Sections 6254 and 6254.7 and this section, nothing in this chapter shall be construed to require disclosure of records of the Department of Corrections and Rehabilitation that relate to health care services contract negotiations, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations, including, but not limited to, records related to those negotiations such as meeting minutes, research, work product, theories, or strategy of the department, or its staff, or members of the California Medical Assistance Commission, or its staff, who act in consultation with, or on behalf of, the department.

(2) Except for the portion of a contract that contains the rates of payment, contracts for health care services entered into by the Department of Corrections and Rehabilitation or its predecessor department, or the California Medical Assistance Commission on

or after July 1, 1993, shall be open to inspection one year after they are fully executed. In the event that a contract for health care services that is entered into prior to July 1, 1993, is amended on or after July 1, 1993, the amendment, except for any portion containing rates of payment, shall be open to inspection one year after it is fully executed.

(3) Three years after a contract or amendment is open to inspection under this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other provision of law, the entire contract or amendment shall be open to inspection by the Joint Legislative Audit Committee and the Bureau of State Audits. The Joint Legislative Audit Committee and the Bureau of State Audits shall maintain the confidentiality of the contracts and amendments until the contract or amendment is fully open to inspection by the public.

(5) The Department of Corrections and Rehabilitation shall disclose to the State Auditor the rate of payment for any health care service contract that is not competitively bid, within 60 days from the date the contract is signed by the parties, or if required to be signed by the Department of General Services, from the date that department signs the contract. The department shall identify the contractor and the general terms of the contract in reporting to the Auditor. The Auditor, upon request by a member of the Joint Legislative Audit Committee, shall provide to the member the information received from the department, including the specific rate of payment. The requirements of this paragraph shall only be applicable until January 1, 2009.

(6) It is the intent of the Legislature that confidentiality of health care provider contracts, and of the contracting process as provided in this subdivision, is intended to protect the competitive nature of the negotiation process, and shall not affect public access to other information relating to the delivery of health care services.

(b) The inspection authority and confidentiality requirements established in subdivisions (q), (v), and (w) of Section 6254 for the Legislative Audit Committee shall also apply to the Bureau of State Audits.

SEC. 3. Section 5024.3 is added to the Penal Code, to read:

5024.3. (a) The department shall at all times utilize the least expensive prescription drug products available and that are consistent with the medical needs of the inmate.

(b) The department shall strive to renegotiate each contract for health care services that is not competitively bid as it expires, to obtain services at the most advantageous price, with a goal of 115 percent of the Medicare rate, when appropriate.

(c) (1) For purposes of this subdivision, “remote travel” means road travel of 150 round trip miles or more between a prison and a hospital providing services to an inmate from that prison.

(2) The department shall compile, within 30 days of the effective date of this section, a list of existing hospital service contracts that involve remote travel, including identifying those prisons involved.

(d) To the extent possible, and consistent with the medical needs of an inmate, the department shall contract for health care services that cannot be provided by existing department employees with providers who will perform those services at the prison site, if the demand for those services would make the contract cost effective by saving costs of custody transportation.

SEC. 4. Section 5024.4 is added to the Penal Code, to read:

5024.4. The department shall work with the San Francisco Veterans Administration Medical Center, or its designee, with the following objectives to be met within 180 days of the effective date of this act:

(a) Establish procedures that would enable parolees who are military veterans to access in a timely fashion applicable medical treatments available from the Medical Center or other Veterans Administration facilities; and that would enable inmates who are military veterans and who are within 90 days of being released on parole to access in a timely fashion, when they are placed on parole, applicable medical treatments available from the Medical Center or other Veterans Administration facilities.

(b) The department shall consult with the San Francisco Veterans Administration Medical Center or its designee for the purposes of identifying methods to ensure that parolees who meet the conditions set in subdivision (a) maintain treatment during parole.

SEC. 5. Section 6126 of the Penal Code, as amended by Section 61 of Chapter 10 of the Statutes of 2005, is amended to read:

6126. (a) (1) The Inspector General shall review departmental policy and procedures, conduct audits of investigatory practices and other audits, and conduct investigations of the Department of Corrections and Rehabilitation, as requested by either the Secretary of the Department of Corrections and Rehabilitation or a Member of the Legislature, pursuant to the approval of the Inspector General under policies to be developed by the Inspector General. The Inspector General may, under policies developed by the Inspector General, initiate an investigation or an audit on his or her own accord.

(2) The Inspector General shall audit each warden of an institution one year after his or her appointment, and shall audit each correctional institution at least once every four years. These audit reports shall be provided to the Legislature and shall be made public. The requirements of this paragraph shall be phased in by the Inspector General so that they are fully met by July 1, 2009.

(b) Upon completion of an investigation or audit, the Inspector General shall provide a response to the requester.

(c) The Inspector General shall, during the course of an investigatory audit, identify areas of full and partial compliance, or noncompliance, with departmental investigatory policies and procedures, specify deficiencies in the completion and documentation of investigatory processes, and recommend corrective actions, including, but not limited to, additional training with respect to investigative policies, additional policies, or changes in policy, as well as any other findings or recommendations that the Inspector General deems appropriate.

(d) The Inspector General, pursuant to Section 6126.6, shall review the Governor's candidates for appointment to serve as warden for the state's adult correctional institutions.

(e) The Inspector General shall, in consultation with the Department of Finance, develop a methodology for producing a workload budget to be used for annually adjusting the budget of the office of the Inspector General, beginning with the budget for the 2005-06 fiscal year.

(f) The Inspector General, using existing resources and in consultation with the California Medical Board, shall establish a process to facilitate the receipt, review, and possible investigation of complaints from employees of the Department of Corrections and Rehabilitation who provide health care services. The Inspector General and the board may enter into a memorandum of understanding regarding the implementation of this subdivision.

Approved _____, 2005

Governor